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WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES, LOUISIANA

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

WILSON PHILEMON

: DOCKET NO. 2:08-cv-1863

Sec. P

VS.

: JUDGE TRIMBLE

ATTORNEY GENERAL MUKASEY

: MAGISTRATE JUDGE KAY

ORDER

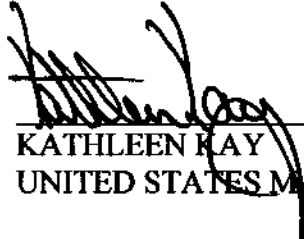
On February 6, 2009, petitioner filed an objection to respondent's motion for extension of time, in which he also requests that this court stay his removal from the jurisdiction of this court in Louisiana and that this court order his immediate release from custody. Doc. 16.

This action is before the court under the provisions of 28 U.S.C. § 2241. Specifically, petitioner argues that, pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001), there is "no significant likelihood of removal in the reasonably foreseeable future." Doc. 4. On January 30, 2009, respondent was granted an extension of time to answer petitioner's petition. Doc. 12. The court, in its discretion, granted that motion. Doc. 14. Further, petitioner seeks a stay of his removal, but argues under *Zadvydas* that there is no significant likelihood he will be removed. Thus, for the court to order a stay of removal would undermine the very purpose of petitioner's petition, which is to be removed from the United States or to be released from custody. Finally, the court is not in a position to determine whether petitioner should be released from the custody of the United States without a response to petitioner's petition by respondents. Therefore, in all respects, Petitioner's motion [doc. 16] is

DENIED.

Once respondent has had an opportunity to answer to petitioner's petition, this court will determine whether an evidentiary hearing is necessary to consider whether there is "no significant likelihood of removal in the reasonably foreseeable future."

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, on February 10, 2009.



KATHLEEN RAY
UNITED STATES MAGISTRATE JUDGE